

1. On March 7, 2022, the Court ordered the parties to mediate this matter within the next sixty (60) days. The Court **stayed** all other matters pending that outcome. (D.E. 117). This motion requests a limited exception to the stay order in order for it to be considered by the Court.

2. Immediately after the Court's Order, counsel for Plaintiffs and counsel for KCBOE began discussing the selection of a mediator as well as other items.

3. Plaintiffs advised KCBOE that, prior to the entry of the Order, they intended to file a *supplement* to their pending Motion to Modify Injunction premised on the updated CDC Guidelines. (D.E. 112, 112-1).

4. It so happens that, under those Guidelines, the mask mandate would be lifted as of March 4, 2022 because Knox County has attained a "Yellow" Community Level (medium risk). U.S. COVID-19 Community Levels by County Map | CDC <https://www.cdc.gov/coronavirus/2019-ncov/science/community-levels-county-map.html> (last visited March 7, 2022). Per that Guidance, indoor masking by everyone is not a recommendation of the CDC unless Knox County returns to "Red" (high risk). *Id.*

5. Given the Court's stay order (D.E. 117), Plaintiffs did not file that supplement. KCBOE has disputed that it should be under any sort of mandate, including one containing CDC guidance. Furthermore, KCBOE has filed a motion to dissolve the mandate.¹ However, KCBOE advised that it would agree with Plaintiffs that, subject to the Court's approval, lifting the mask mandate is *currently* appropriate regardless of the CDC Guidance.

¹ Understanding that with this court's Stay (D.E. 117) in place, such motion will not be acted upon—nor a response required from Plaintiffs—until the Stay is lifted.

6. While the parties may not agree on *why* lifting the mandate is currently appropriate, they do agree it is currently appropriate. Accordingly, in an effort at compromise heading into mediation, and considering the interests of the Plaintiffs as well as KCBOE in the current phase of the pandemic, the parties jointly request that the Court enter an Order Lifting the Mask Mandate for *sixty-days from the date of entry of D.E. 117*, or until the mediation of this matter has concluded, whichever comes first. All other aspects of the stay in the March 7, 2022 Order (D.E. 117) would remain in place. Should CDC guidance return Knox County to “red” or “high risk” status, nothing in the parties’ joint proposal would preclude Plaintiffs from petitioning the Court for a return to its previous masking mandate (D.E. 48), though KCBOE would retain the right to challenge such petition on the merits.

Respectfully submitted,

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